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Report of the Special Rapporteur on violence against women, its causes and consequences*

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on violence against women, its causes and consequences, prepared pursuant to Council resolution 32/19. In her report, the Special Rapporteur considers key elements of a human rights-based approach to integrated services and protection measures on violence against women, with a focus on shelters and protection orders.

* The present report was submitted after the deadline in order to reflect the most recent developments.

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I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 32/19. It outlines the activities of the Special Rapporteur on violence against women, its causes and consequences and contains a thematic analysis of the human rights-based approach to integrated services and protection measures on violence against women with a focus on shelters and protection orders, a topic listed among the thematic priorities of the Special Rapporteur (see A/HRC/32/42 and Corr.1, paras. 51-57).

II. Activities of the Special Rapporteur

A. Reporting

2. On 23 September 2016, the Special Rapporteur addressed the General Assembly at its seventy-first session pursuant to Assembly resolution 69/147, presenting her thematic report on femicide, or the gender-related killing of women (A/71/398), in which she proposed modalities for the establishment at the global, regional and national levels of a "femicide watch" or observatories on violence against women.[1] She also presented responses received from global and regional independent mechanisms following her call for input on the issue of the adequacy of the international legal framework on violence against women.

3. On 13 March 2017, the Special Rapporteur participated in the sixty-first session of the Commission on the Status of Women and presented an oral report outlining the current priorities of the mandate. She also called on Governments and civil society to start the process leading to a fifth world conference on women, with a focus on violence against women as a priority.[2]

4. At that session, the Special Rapporteur also addressed several panels covering a wide range of issues related to violence against women. She moderated a closed consultation on operationalizing enhanced collaboration between the international and regional mechanisms on women's rights and violence against women. It was agreed to work on the institutionalization of such cooperation. The experts also decided to further explore possibilities for meetings and consultations during the sessions of the Human Rights Council and other intergovernmental bodies, where both international and regional women's rights mechanisms could participate.

5. The Special Rapporteur also met with the Secretary-General, together with the Chair of the Committee on the Elimination of Discrimination against Women, the Chair of the Group of Experts on Action against Violence against Women and Domestic Violence of the Council of Europe, a member of the Working Group on the issue of discrimination against women in law and in practice and the coordinator of the thematic monitoring section of the Inter-American Commission on Human Rights. Within the context of this meeting, the Special Rapporteur addressed the key issue of cooperation between independent international and regional mechanisms on women's rights and violence against women and proposed the institutionalization of such cooperation. The Secretary-General lent support to this initiative and entrusted his Senior Adviser on Policy to be the focal point in his Office to work on this topic with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the Office of the United Nations High Commissioner for Human Rights (OHCHR).

[1] See http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20677&LangID=E.

[2] See http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21382&LangID=E.

B. Cooperation with regional organizations and independent global and regional mechanisms on violence against women

6. The Special Rapporteur participated in the fifty-ninth session of the African Commission on Human and Peoples' Rights, held in Banjul in October 2016. She also held a meeting with the Special Rapporteur on the Rights of Women in Africa, with a view to fostering further cooperation between the mandates.[3]

7. On 25 November 2016, on the International Day for the Elimination of Violence against Women, the Special Rapporteur issued a call, jointly with all global and regional independent mechanisms on violence against women, for the intensification of international, regional and national efforts for the prevention of femicide and gender-based violence. The mechanisms called upon States to fully accept, incorporate and implement global and regional treaties on women's rights and violence against women and for the establishment of a femicide watch.[4]

8. During 2015 and 2016, the Special Rapporteur and the Committee on the Elimination of Discrimination against Women, which have established a formal collaboration with a view to updating the Committee's general recommendation No. 19 (1992) on violence against women, pursued their work.[5] In that respect, on 30 October 2016, the Special Rapporteur participated in a meeting, held in Geneva, of the Committee's working group on updating general recommendation No. 19 and on 2 and 3 February 2017, she participated in a follow-up expert group meeting of the working group, held in London.

9. The Special Rapporteur issued several statements jointly with other human rights mechanisms.[6]

C. Participation in conferences and consultations and other activities

10. From 23 to 27 May 2016, the Special Rapporteur participated in the twenty-fifth session of the Commission on Crime Prevention and Criminal Justice, held in Vienna, and delivered an opening statement focusing on the cooperation between the mandate and the Commission in matters of criminal justice and prevention of violence against women.[7]

11. On 25 November, she participated in a gender symposium on combating femicide, organized in Vienna by the Gender Unit of the Organization for Security and Cooperation in Europe and the United Nations Office on Drugs and Crime, and presented her initiative on the establishment of a femicide watch.[8]

12. On 29 November, she participated in a hearing organized at the European Parliament in Brussels by the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Women's Rights and Gender Equality on the accession by the European Union to the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention), and called upon Governments to fully endorse and implement the Istanbul Convention and the Convention on the Elimination of All Forms of Discrimination against Women as compatible and mutually reinforcing instruments.[9]

13. On 12 and 13 December, she attended the Global Summit of Women Speakers of Parliament, co-hosted by the Inter-Parliamentary Union and the Federal National Council

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[3] See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20768&LangID=E.

[4] See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20911&LangID=E.

[5] See Committee on the Elimination of Discrimination against Women decision 65/4.

[6] See http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21317&LangID=E, http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21304&LangID=E and http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21317&LangID=E.

[7] See http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20013&LangID=E.

[8] See http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20953&LangID=E#sthash.1zNmbuRF.dpuf.

[9] See http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20964&LangID=E.

of the United Arab Emirates, held in Abu Dhabi.[10] The summit adopted the Abu Dhabi Declaration, titled "United for shaping the future, for a better world", which includes a commitment to advance gender equality and women's empowerment.[11]

14. On 13 January 2017, she attended an expert group meeting organized jointly with the Centre for Women, Peace and Security at the London School of Economics and Political Science on shelters and protection orders, which fed into the present report. She also issued a call for submissions for the present thematic report[12] and received 48 responses.[13]

15. On 7 and 8 February, she attended a meeting of the High-Level Working Group on the Health and Human Rights of Women, Children and Adolescents, convened jointly by OHCHR and the World Health Organization.

16. On 4 April, the Special Rapporteur sent a letter to the Executive Director of UN-Women to further explore with UN-Women, in its capacity as administrator of the Trust Fund for Victims of Violence against Women, ways and means of cooperation between the mandate and the Trust Fund, as envisaged in the Trust Fund's founding resolution.[14]

D. Country visits and communications

17. For country visits conducted and country visit reports presented during the reporting period, please see documents A/HRC/35/30/Add.1, Add.2 and Add.3.

18. The Special Rapporteur, jointly with other mandate holders, sent more than 40 communications relating to issues falling within the scope of the mandate.

III. Human rights-based approach to integrated services and protection measures on violence against women: focus on shelters and protection orders

A. International and regional human rights frameworks on shelters and protection orders

19. International and regional human rights and policy instruments set out States' obligations to combat all forms of discrimination against women, including violence against women, and to protect their human rights, including every woman's right to be free from violence. These obligations include the obligation to protect women against gender-based violence — particularly in the context of domestic violence or intimate partner violence — by ensuring their safety and human rights through access to shelters/refuges and access to protection orders.

20. These obligations are directly or indirectly enshrined in international and regional legal and policy human rights instruments and have been further elaborated by independent mechanisms that monitor their implementation. These mechanisms include the Committee on the Elimination of Discrimination against Women and other treaty bodies, regional human rights mechanisms, the Special Rapporteur on violence against women and other special procedure mandate holders. As highlighted throughout the present report, through their recommendations and jurisprudence these mechanisms have further clarified States' human rights obligation to establish a comprehensive and coordinated national framework

[10] See http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21053&LangID=E.
[11] See http://www.ipu.org/splz-e/abudhabi16/declaration.pdf.
[12] See http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/OrdersAndShelters.aspx.
[13] All contributions are available at http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/SheltersProtectionOrders.aspx.
[14] General Assembly resolution 50/166.

to combat and to prevent gender-based violence, including through provision of shelters and protection orders, which are essential tools in this framework.

21. The Convention on the Elimination of All Forms of Discrimination against Women and the Declaration on the Elimination of Violence against Women provide a comprehensive international framework in which gender-based violence against women is the manifestation of the historical unequal power relationship between women and men. Gender-based violence is defined as constituting discrimination against women and a human rights violation, thereby establishing a corresponding obligation on States to prevent, investigate, prosecute and punish such acts and to provide remedies for victims. Closely linked to prevention is the requirement that States must provide adequate protection to victims, survivors and potential victims of violence.

22. General recommendation No. 19 defines gender-based violence against women as violence that is directed against a woman because she is a woman or that affects women disproportionately. It further explains that such violence impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions. It emphasizes the importance of shelters or "refuges" and specifies that States should establish support services for victims of family violence, rape, sexual assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counselling.

23. This key instrument, which is being updated by the Committee in cooperation with the Special Rapporteur, is expected to include additional guidance on measures needed to eradicate gender-based violence. The present report reflects important developments in this field and provides more detailed guidance on the human rights-based approach and States' obligation to protect the human rights of women and their safety by establishing shelters/refuges and implementing protection orders.

24. In general recommendation No. 33 (2015) on women's access to justice, the Committee on the Elimination of Discrimination against Women recognizes the financial constraints faced by many women victims of violence and calls on States to guarantee access to financial aid, crisis centres, shelters, hotlines and medical, psychosocial and counselling services. It further requires States to take steps to guarantee that women are not subjected to undue delays in applications for protection orders and that all cases of gender-based discrimination under criminal law, including violence, are heard in a timely and impartial manner.

25. The 1993 Declaration on the Elimination of Violence against Women calls on States to ensure that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance with childcare and maintenance, treatment, counselling and health and social services, facilities and programmes as well as support structures, and to take all other appropriate measures to promote their safety and physical and psychological rehabilitation.

26. In the Beijing Platform for Action, States also affirm their commitment to provide well-funded shelters and relief support for girls and women subjected to violence as well as medical, psychological and other counselling services and free or low-cost legal aid.

27. The agreed conclusions on the elimination and prevention of all forms of violence against women and girls, adopted by the Commission on the Status of Women at its fifty-seventh session, in 2013, also call for multidisciplinary and gender-sensitive preventive and protective measures, such as emergency barring orders and protection orders, and for access to shelters, in the context of the strengthening of multisectoral services, programmes and responses to violence against women. These include State and independent women's shelters and counselling centres, 24-hour hotlines, social aid services, one-stop crisis centres, child services and public housing services to provide low-threshold, easily accessible and safe assistance for women and children, as well as assistance, protection and support.

28. The updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice call on States to establish, fund and coordinate a sustainable network of accessible facilities and

services for emergency and temporary residential accommodation, health services, including counselling and psychological care, legal assistance and other basic needs for women and their children who are victims of violence or who are at risk of becoming victims of violence.

29. The 2030 Agenda for Sustainable Development includes in goal 5.2 the elimination of violence against women as a target for the achievement of gender equality and the empowerment of women. However, its related indicators, 5.2.1 and 5.2.2., do not address the collection of data on shelters and protection orders, which would provide relevant information on their availability and reveal the need for additional shelters or protection orders. The Special Rapporteur also highlights that there is currently no indicator on the number or the rate of femicides or gender-related killings of women, although this extreme form of violence is in many cases directly related to a widespread unavailability of shelters and lack of efficacy or enforceability of protection orders.

30. Regional instruments like the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará) and the Istanbul Convention specifically address violence against women and as such have explicit and detailed provisions on services and protection measures, including shelters and protection orders. All these regional instruments were adopted after the Convention on the Elimination of All Forms of Violence against Women and are compatible instruments that build on the Convention and provide more detailed guidance. This is specifically the case of the Istanbul Convention, which is the most recent regional instrument. Adopted in 2011, it supplements the Convention framework and the jurisprudence of all other regional mechanisms.[15]

31. The Istanbul Convention contains explicit provisions on shelters and protection orders. In relation to shelters, article 23 requires States parties to take the necessary legislative or other measures to provide for the setting up of appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out proactively to victims, especially women and their children. In relation to protection orders, it regulates "go" or emergency barring orders for victims of domestic violence in article 52, which calls on States to ensure that competent authorities are granted the power, in situations of immediate danger, to order a perpetrator of domestic violence to vacate the residence of the victim. Article 53 regulates protection orders for victims of all forms of violence and calls for their immediate protection without undue financial and administrative burdens, a specific time frame, and ex parte issuance and availability irrespective of other proceedings. It also calls for criminalization of their breaches.

32. The Convention of Belém do Pará of 1994 was the first regional instrument on violence against women. Its article 8 (d) calls upon States parties to undertake progressively specific measures, including programmes to provide appropriate specialized services for women who have been subjected to violence, through public and private sector agencies, including shelters, counselling services for all family members where appropriate, and care and custody of the affected children. On protection orders, article 7 (d) requires States to adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property.

33. Though not as specific, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) also addresses violence against women. Article 4 (2) (f) provides that States parties shall establish mechanisms and accessible services for effective information, rehabilitation and reparation for victims of violence against women.

[15] See Dubravka Šimonović, "Global and regional standards on violence against women: the evolution and synergy of the CEDAW and Istanbul Conventions", *Human Rights Quarterly*, vol. 36, No. 3 (August 2014), pp. 590-607.

B. Protection of women's human right to live free from violence

34. International and regional women's human rights instruments contain important guiding human rights norms recognizing violence against women as a human rights violation. Additionally, the Vienna Declaration and Programme of Action reaffirm that women's rights are human rights and that the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights. The World Conference on Human Rights welcomed the decision to consider the appointment of a special rapporteur on violence against women; the mandate was established in 1994 with the aim of further integrating violence against women into the human rights framework and agenda. Furthermore, the Beijing Declaration and Platform for Action of 1995 specifically address violence against women as human rights violation.

35. The women's human rights framework relies on gender-specific or gendered human rights principles that are applicable to violence against women, including those on services and measures such as shelters and protection orders. These principles include principles — non-discrimination based on sex/gender, the principle of substantive equality between men and women, women's empowerment, State responsibility, including due diligence responsibility, and the right to live free from violence — that encompass other human rights.

36. States have human rights obligations to combat and prevent all forms of discrimination and violence against women by prohibiting and sanctioning sex-/gender-based discrimination in all its forms including gender-based violence against women (arts. 1 and 2 of the Convention on the Elimination of All Forms of Discrimination against Women) and to this end, to embody and realize the principle of equality between men and women (art. 2) and to empower women (art. 3) by undertaking measures to ensure women's full development and advancement.

37. States' obligation to protect women's right to live free from violence requires protection of their human rights. In general recommendation No. 19 the Committee on the Elimination of Discrimination against Women enumerates some of those rights: (a) protection of the right to life; (b) the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment; (c) the right to equal protection according to humanitarian norms in time of international or internal armed conflict; (d) the right to liberty and security of person; (e) the right to equal protection under the law; (f) the right to equality in the family; (g) the right to the highest attainable standard of physical and mental health; (h) the right to just and favourable conditions of work.

38. Furthermore, the Convention specifically requires States to take all appropriate measures to eliminate discrimination against rural women and to ensure their enjoyment of adequate living conditions and adequate housing (art. 14 (2)).

39. All the human rights and fundamental freedoms that could be violated in cases of violence against women constitute women's human right to live free from violence. The Convention of Belém do Pará explicitly states that violence against women constitutes a violation of their human rights and fundamental freedoms; article 3 recognizes that every woman has the right to be free from violence in both the public and private spheres.

40. The Istanbul Convention, in article 4 (1), also explicitly refers to violence against women as a human rights violation and protects the right for everyone, particularly women, to live free from violence in both the public and the private sphere.

41. This recognition of women's right to live free from violence determines States' human rights obligation to protect women victims or potential victims of violence against women by adopting laws and practical measures to prevent and combat such violence, providing a comprehensive set of services such as shelters and measures, including protection orders. States should ensure that services facilitate women's recovery from violence and enable them to overcome the mutiple consequences of violence to rebuild their lives. This requires gendered provision of accessible, affordable, appropriate, acceptable and quality access to services and protection measures.

42. Such services must be victim-centred and focused on women's human rights, safety and empowerment of the victim and aimed at avoiding secondary victimization of women and children.[16] Such a holistic approach has to apply to all the phases related to the provision of the protection measures, with a view to preventing, protecting and prosecuting gender-based violence and ensuring victims' rehabilitation from violence and thus their empowerment.

43. The State obligation to ensure access to shelter for women with children has been addressed by the Committee on the Elimination of Discrimination against Women,[17] finding that the State failed in its obligations when the applicant was unable to flee to a shelter because none was equipped to accept her with her children, one of whom was disabled, and that failure to provide shelter for a woman with a disabled child is a breach of women's rights under article 2 (a) (b) and (e) of the Convention. In this case, the Committee recognized that the unavailability and inaccessibility of shelters was a clear violation of a woman's human rights.

44. In a case before the European Court of Human Rights, the Court referred to life at risk of violence and the obligation of States to undertake protective measures: "Furthermore, in the light of the State's positive obligation to take preventive operational measures to protect an individual whose life is at risk, it might have been expected that the authorities, faced with a suspect known to have a criminal record of perpetrating violent attacks, would take special measures consonant with the gravity of the situation with a view to protecting the applicant's mother."[18]

45. In another case, the Committee on the Elimination of Discrimination against Women further highlighted that when assessing whether a protection order should be granted, the courts should take account of all forms of violence against women, not just life-threatening violence. Furthermore, the standard of proof that an applicant must meet in order to be granted protection order should not be the standard of criminal proof, i.e., beyond reasonable doubt. Courts should also be aware that many forms of violence, particularly domestic violence, are courses of conduct which take place over time, and should not therefore impose strict time limits on access to protection orders.[19]

46. The Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard living, and on the right to non-discrimination of the Commission on Human Rights identified the relevance of the provision of shelters in the context of the right to adequate housing, and noted that domestic violence can greatly increase women's vulnerability to homelessness, especially when there is a lack of protection by law enforcement officials, or by the legal system itself (see E/CN.4/2006/118, para. 33).

C. States' human rights obligations to provide for shelters and protection orders

47. In accordance with article 2 of the Convention, States have a human rights obligation to ensure that both State and non-State agents refrain from engaging in any act of discrimination against women. States have a direct responsibility concerning violence perpetrated by agents of the State itself. Article 2 (d) of the Convention requires States, including their national bodies and agents, to refrain from engaging in any act or practice or direct or indirect discrimination against women and to ensure that public authorities and institutions act in conformity with this obligation.

48. States also have a due diligence obligation related to discrimination and violence against women perpetrated by non-State actors, including private persons. The due diligence principle framing States' obligation with respect to violence committed by private

[16] Committee on the Elimination of Discrimination against Women, communication No. 47/2012, *González Carreño v. Spain*, decision of 16 July 2014.

[17] See communication No. 2/2003, *A.T. v. Hungary*, Views adopted on 26 January 2005, para. 9.4.

[18] See application No. 33401/02, *Opuz v. Turkey*, decision of 9 June 2009, para. 148.

[19] See communication No. 20/2008, *V.K. v. Bulgaria*, Views adopted on 25 July 2011, para. 9.9.

persons is set out in article 2 (e), which requires States to take all appropriate measures to eliminate discrimination against women committed by a person, an organization or an enterprise.[20] Therefore, States are responsible for the actions of non-State actors, including individuals, when they fail to meet their due diligence obligations.

49. In general recommendation No. 19, the Committee on the Elimination of Discrimination against Women further explains that States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence and for providing compensation.

50. Article 4 (c) of the Declaration on the Elimination of Violence against Women urges States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women.

51. Article 7 (b) of the Convention of Belém do Pará includes among the duties of States condemning all forms of violence against women and agreeing to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and to apply due diligence to prevent, investigate and impose penalties for violence against women.

52. Article 5 (2) of the Istanbul Convention requires States to take all the necessary legislative and other measures to exercise due diligence to prevent, investigate and punish, and provide reparations for acts of violence against women and girls perpetrated by non-State actors.

53. States' responsibility for acts of private persons includes the obligation to modify or adopt domestic legislation to protect women from gender-based violence committed by non-State actors and to provide services and measures to protect them from such violence. This due diligence obligation also includes adequate implementation of relevant laws and robust criminal justice responses involving the cooperation of all State actors.

54. The Committee on the Elimination of Discrimination against Women has further elaborated on the due diligence obligation in two cases of femicide in which women victims of domestic violence were murdered by their husbands after they had been granted protection orders. In both decisions, the Committee stated that "in order for the individual woman victim of domestic violence to enjoy the practical realization of the principle of equality of men and women and of her human rights and fundamental freedoms, the political will that is expressed in the aforementioned comprehensive system of Austria must be supported by State actors, who adhere to the State party's due diligence obligations". Also in both cases, the Committee considered that the authorities (i.e., the public prosecutor) should have been aware of the high threshold of violence that both perpetrators had crossed and that they should not have denied police requests to arrest and detain them, as the perpetrators' rights could not have superseded the women's human rights to life and physical and mental integrity.[21]

D. Shelters and protection orders: gaps, challenges and good practices

1. Definitions

55. A "shelter"[22] or "refuge" denotes emergency and temporary "safe accommodation for women and children who have been exposed to, or are at risk of (usually male) violence

[20] See www.theadvocatesforhumanrights.org/uploads/bip_report_january_2016.pdf.

[21] See communications No. 5/2006, *Goekce (deceased) v. Austria* and No. 6/2006, *Yildirim (deceased) v. Austria*, Views adopted on 6 August 2007, paras. 12.1.2 and 12.3 (b) of both decisions. Paragraph 12.1.5 of both decisions contains similar wording with respect to the failure of the State party to protect the victim.

[22] The term "refuge" is more widely used in European contexts and "shelter" is more common in North America and Australia, while some States also use "safe house" or other terms. In the present report, "shelter" is used inclusively to accommodate the various terms. On the history of women's shelters, see Canadian Network of Women's Shelters and Transition Houses and UN-Women, "Shelter for

in a domestic context".[23] Shelters provide temporary and emergency safety but usually do not offer long-term solutions. They are often associated with refuges from domestic violence but can also provide support for women and girls who have been subjected to, or are at risk of, other forms of violence, for instance trafficked persons, migrants and asylum seekers, and those fleeing from conflict to refugee and internally displaced persons camps, where the risk of gender-based violence is high.[24]

56. Types of shelters vary significantly across States, regions and communities. Some shelters are established and run by independent civil society organizations autonomously without support from the State and some are supported by a licensing system or grants allocated for a specific period. Some civil society organizations, such as WAVE, have developed guidelines for setting up shelters. There are also State-owned and -operated shelters, but these have usually proven to fall short in their delivery of services.

57. The establishment of and support for shelters also involve consideration of cultural barriers and gender stereotypes, as well as States' economic constraints. In recent years, social services, such as public housing and access to shelters, have been undermined by austerity policies and budgetary cuts.

58. There are no United Nations, global or regional data on the number and types of shelters in Member States or agreed global standards on the number of places needed. Civil society organizations have established the Global Network of Women's Shelters and organized three world conferences and published five Global Shelters Data Count reports, the last containing information on 46 countries.[25]

59. The need for more women's shelters was documented by a survey carried out in 27 European States by WAVE in 2001 that found at least a few women's shelters and support organizations in each country.[26] A group of experts has recommended the establishment of one shelter/refuge place for every 10,000 inhabitants, providing safe emergency accommodation, qualified counselling and assistance in finding long-term accommodation.[27]

60. In some States there are no shelters; in others, there are only daily shelters that do not permit overnight stay. There are also different types of shelters: some States have shelters run by civil society organizations while others run State shelters or have a combination of both. In many States, the type of shelter is determined by the availability and amount of funding, either from the State or external donors, as well as on whether funding is sustainable.[28]

61. Protection orders aim to ensure safety through a "go" order which requires a perpetrator of domestic violence to leave a shared home and to keep at a certain distance from the victim (barring orders). Protection orders can impose a range of restraints on the person subject to the order. For example, they require a perpetrator to vacate the residence of the victim or to stay away from the shared home, from specific places (e.g., the victim's workplace or her children's school) or to refrain from contacting the victim or person at risk. Some jurisdictions permit additional orders to require, for example, a perpetrator to pay rent for the family home or child support, or to surrender weapons in his possession.

62. In most cases, protection orders are issued by a court, a prosecutor or by the police, to protect an individual from harassment or violence, or fear of violence, by a named

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women and girls at risk of or survivors of violence", 2013, available from www.endvawnow.org/uploads/modules/pdf/1363538451.pdf.

[23] Women Against Violence Europe (WAVE) and Austrian Women's Shelter Network, *Away from Violence: Guidelines for Setting up and Running a Women's Refuge* (Vienna, 2004).

[24] Committee on the Elimination of Discrimination against Women, general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations.

[25] See http://gnws.org/en/work/global-data-count.html.

[26] See https://www.wave-network.org/.

[27] *Handbook for Legislation on Violence against Women* (United Nations publication, Sales No. E.10.IV.2), p. 31.

[28] Canadian Network, "Shelter for women and girls at risk".

individual. They may be ordered independently by a civil court or they may be part of civil or criminal legal proceedings protecting the safety of the victim while other proceedings go forward. States should ensure that criminal and civil remedies are utilized in cases where the perpetrator in a domestic violence situation poses a dangerous threat to the victim.[29]

2. Intersection between shelters and protection orders

63. There is a significant intersection between shelter and protection orders, even though they are provided by different actors or parts of a State system. Experience shows that shelters continue to be necessary even when effective legislative protection against violence exists. Not every victim of violence wishes to turn to the police and the judicial system and bring legal charges or seek protection orders; some prefer to go to a refuge. There are cases where women who are at high risk need safe accommodation during the separation process because the law and protection orders are not capable of providing complete protection against violence. Some women cannot or do not wish to remain at home due to the trauma they have suffered or because their partner's relatives live next door, or because the lease has been terminated or is not in their name (see A/HRC/32/42/Add.2, para. 69).

64. Shelters and protection orders are necessary and complementary protection measures that can be used cumulatively. However, such complementarity is usually not followed in practice since the bureaucratic divide between social services and the justice system often results in protection gaps caused by insufficient coordination.

65. In many cases, weak and uncoordinated State interventions in persistent, long-term patterns of violence create a protection gap and end in tragedy: the killing of a woman[30] and/or the killing of her children.[31] Such femicides, or gender-related killings, are preventable if such violence is treated as a serious crime and States fulfil their human rights obligation to combat and prevent them. This includes the provision of the full range of protection services to victims or potential victims, such as shelters, longer-term housing and protection orders. These measures need to be readily available and easily accessible to women and girls.

3. Gaps, challenges and good practices

66. The mandate of the Special Rapporteur has gained a unique experience by gathering information on shelters and protection orders during country visits that included visits to shelters and the collection of first-hand information from survivors of violence against women, service providers and concerned authorities. Gaps and challenges linked to the provision of shelters and protection orders have also been identified from the work of the Committee on the Elimination of Discrimination against Women and other relevant mandate holders.

67. Overall, the mandate has encountered a general lack of understanding of States' human rights obligations, including the obligation to combat and prevent gender-based violence and to provide protection services such as shelters and protection measures.[32]

68. The mandate's experience shows that today, many States tend to perceive the establishment of shelters or support for non-governmental organizations running shelters as voluntary commitments and not as part of their human rights obligations based on international human rights treaties. This situation is related to the lack of full incorporation and implementation of the Convention on the Elimination of All Forms of Discrimination against Women and the failure to adopt comprehensive and holistic approaches to integrated services to combat and prevent violence against women. In addition, criminal laws and criminal procedure laws are often not sufficiently aligned with laws on domestic

[29] See *Yildirim (deceased) v. Austria*, para. 12.3 (b).

[30] See *Opuz v. Turkey*.

[31] See *Gonzáles Carreño v. Spain* and Inter-American Commission on Human Rights, case No. 12.626, *Jenahan (Gonzales) and others v. United States of America*, decision adopted on 21 July 2011.

[32] For a summary and compilation of the mandate's findings drawn from country visits, see www.ohchr.org/Documents/Issues/Women/SR/Shelters/CountryVisitExperience.pdf.

violence or violence against women and their gender-neutral approach. This, coupled with the unavailability of statistical data on violence against women and existing stereotypes, results in the denial of violence against women and its tolerance or normalization and in systematic gaps in the protection provided by shelters and protection orders.

Shelters

69. From its establishment in 1994, the mandate of the Special Rapporteur has included visiting women's shelters during country visits, and the information collected during its 23 years of such experience has been used to identify specific gaps and challenges with respect to shelters. In her first preliminary report, the first mandate holder recognized that the aim of shelters was to provide battered women with a safe haven and somewhere to go, providing survival, safety, support, self-esteem and information. In that report the Special Rapporteur stated that any shelter or refuge system must be viewed only as a component of a coordinated and multifaceted approach to domestic violence (see E/CN.4/1995/42, para. 139).

70. The following are among the most common issues raised as serious matters of concern related to shelters.

Availability, accessibility and funding of shelters and safe alternative housing

71. The lack or insufficient number of shelters, as well as unavailability of shelters and alternative safe houses, are issues of concern that are commonly raised. In many instances, shelters are either not available or the service provided is inadequate to respond to violence against women. There is also a lack of equitable territorial allocation of shelters, especially in rural areas.[33]

72. Despite some recognition that domestic violence forces women and children to relocate for safety, too often national Governments do not provide national planning or funding to establish sufficient numbers, capacity or distribution of shelters around the country.[34] Many shelters receive some funding from States but usually in an unsustainable manner and only for a specific period of time that does not allow shelters to develop, plan or provide the required services. Good practice shows that State funding needs to be secure, sustained and adequate and that shelters should be jointly funded from central government budgets and from regional or provincial budgets. The State's obligation to protect women from violence has to be reflected also in the allocation of adequate financial resources for shelters and protection measures.

73. A major challenge in several contexts is ensuring access to safe and affordable housing options for women and children when they leave a shelter. Many women who have fled from domestic violence are forced to return to their homes and to face further violence due to the lack of second-stage shelter facilities. Access to safe and affordable housing for survivors is insufficient and often inadequate to meet the demand.

Security/confidentiality

74. The mandate has encountered tension between the notions of security and secrecy of shelters.[35] It is good practice to keep the location of shelters confidential from the general public and known only to those who can provide women with access to them. States providing resources and licences to shelters run by civil society organizations could conduct monitoring and evaluation to determine what is required, while preserving the confidentiality and security of the shelter. However, in some situations, especially in rural

[33] See, for example, A/HRC/32/42/Add.2, para. 69 (South Africa).

[34] Janet C. Bowstead, "Why women's domestic violence refuges are not local services", *Critical Social Policy*, vol. 35, No. 3 (August 2015); Deborah Quilgars and Nicholas Pleace, *Meeting the Needs of Households at Risk of Domestic Violence in England. The Role of Accommodation and Housing-related Support Services* (London, Department for Communities and Local Government, Government of the United Kingdom, 2010). See also A/HRC/11/6/Add.2, para. 84 (Tajikistan) and A/HRC/23/49/Add.3, para. 101 (b) (Bosnia and Herzegovina).

[35] See, for example, A/HRC/11/6/Add.4, paras. 72 and 83 (b) (Republic of Moldova).

areas, confidentiality may be a barrier between a woman in a shelter and her supportive family members; there need to be methods that ensure that contact is maintained without prejudicing the safety and confidentiality of the refuge. Accordingly, appropriate safety measures must be implemented and kept under scrutiny. "To this end, the security situation of each victim should be assessed and an individual security plan should be drawn up on the basis of that assessment. The technical security of the building is another key issue for shelters as violent attacks by perpetrators are a threat, not only to the women and their children, but also to the staff and others in the surrounding area. Moreover, effective co-operation with the police on security issues is indispensable."[56]

75. The mandate visited countries where women are detained in shelters in a form of administrative detention or "protective custody",[57] ostensibly to ensure their safety against forms of violence such as honour killings, but in reality it serves as a punishment for actual or suspected transgression of social norms. In other countries, shelters are used for the purpose of pretrial detention, owing to the lack of pretrial facilities for females.[58]

Access and referral

76. Women's need for emergency shelter can occur at any time, especially during night hours, and it is important to secure immediate access to shelters. The mandate has encountered different barriers, such as the requirement of formal recognition of victim status.[59] In many cases women may not be able to refer themselves to a shelter. Requirements that referral must be through a bureaucratic committee of service providers can therefore act as a barrier to women accessing shelters.

77. In some contexts, adolescents and boys above a specific age are excluded from shelters, separating them from their mothers or preventing mothers from seeking a refuge. Alternative solutions should be sought to exclusion based on concerns about privacy or bathroom facilities, such as providing shelter to a mother and her son(s) in a self-contained apartment.

78. Some women may also be excluded from shelters by law. For instance, in some countries there is a law that public funds may not be used for women without legal status, preventing them from accessing public services (see CEDAW/C/GBR/CO/7, para. 56). In these countries, undocumented migrant women and migrant workers, who are particularly vulnerable to violence perpetrated by abusive employers, husbands or other relatives, are excluded from access to shelters.[60]

Length of stay

79. While shelters do not constitute a long-term solution, in the experience of the Special Rapporteur they generally provide support for at least three to six months, with the possibility of extending the period of accommodation when necessary. Shelters that are only available for shorter or specified periods (a few days) do not provide adequate assistance and, with their return to a situation of danger, may expose victims to an escalation of violence as a reprisal for seeking protection. The length of stay in emergency shelters is typically short, which may not offer women enough time to decide the kind of housing they need or to choose and secure an adequate space before leaving the shelter. Furthermore, State efforts to broaden the availability of housing are often made without taking into consideration the specific safety needs of women escaping from violence (e.g.,

[56] See Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, Council of European Treaty Series No. 210, 11 May 2011, para. 134.

[57] See, for example, A/HRC/26/38/Add.2, para. 64 (Bangladesh) and A/HRC/20/16/Add.1, paras. 27-28 (Jordan).

[58] See, for example, A/HRC/29/27/Add.3, para. 53 (Afghanistan).

[59] See A/HRC/32/42/Add.3, paras. 57, 84 and 88 (Georgia).

[60] Committee on the Elimination of Discrimination against Women, general recommendation No. 26 (2008) on women migrant workers.

through careful risk assessment, safety planning or ensuring security precautions), which further affects women's capacity to choose viable options.

Lack of services to empower women in shelters

80. Many shelters, due to limited resources, provide only safety and some services related to physical and mental health. Very often services like free health care, psychosocial and counselling support, access to justice and legal advice are not provided by shelters.[41]

81. Women in shelters should be able "to deal with their traumatic experiences, to end the violence, to regain their self-esteem, and to lay the foundations for a self-determined and independent life".[42] In many cases this is coupled with the inability of women to leave the shelter owing to lack of employment, family support or any means to support themselves and their children. In some shelters children living with their mothers are forced out of school for the entire duration of the mother's stay, without being offered any suitable alternatives.

4. Protection orders

Non-existence to protection orders or lack of their enforceability

82. The Special Rapporteur has noted that there are pervasive cultural assumptions about a woman's need to "leave" a violent household, as opposed to the need to remove a violent partner who undermines women's enjoyment of the right to adequate housing.[43]

83. The Committee on the Elimination of Discrimination against Women has noted that States should ensure that criminal and civil remedies are utilized in cases where the perpetrator in a domestic violence situation poses a dangerous threat to the victim.[44]

84. The Special Rapporteur also highlights that in many jurisdictions protection orders are not issued immediately and on an ex parte basis. Also, police do not inform women that they have the right to apply for a protection order and, too often, authorities decline to issue protection orders even when the law explicitly provides for this protection and victims apply for it.[45]

85. Further, authorities delay the issuance of protection orders for so long that they become ineffective, and the process in fact increases the risk to the victim. Too often, protection orders are not effectively enforced and their breach is not criminalized. Breaches of orders may indicate an increased level of danger for a woman or her children. Criminal accountability of perpetrators for the breach of an order must be ensured along with all other initiatives, including the provision of domestic violence shelters and protection orders.[46] Indeed, several cases at the international level show that perpetrators who continue to breach protection orders can eventually kill their victims.[47] This illustrates that it is absolutely necessary that breaches of protection orders are criminalized to enable police to arrest the perpetrator.[48]

86. The Special Rapporteur is also concerned about the approach of judges towards protective measures which, too frequently, focuses on treatment for perpetrators rather than

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[41] See, for example, A/HRC/26/38/Add.3, para. 48 (Azerbaijan), A/HRC/20/16/Add.3, para. 10 (Somalia) and A/HRC/17/26/Add.4, para. 81 (Zambia).

[42] WAVE, *Away from Violence*.

[43] See, for example, A/HRC/29/27/Add.3, para. 44 (Afghanistan).

[44] See *Goekce (deceased) v. Austria*, para. 12.3 (b).

[45] See, for example, A/HRC/29/27/Add.1, paras. 36, 78 and 85 (Honduras), A/HRC/29/27/Add.2, para. 101 (United Kingdom of Great Britain and Northern Ireland) and A/HRC/17/26/Add.5, para. 110 (d) (United States of America).

[46] See *Lenahan (Gonzales) and others v. United States of America*, para. 168, citing case No. 12.051, *da Penha Fernandes v. Brazil*, decision adopted on 16 April 2001, para. 56, also cited in *Opuz v. Turkey*, para. 86.

[47] Ibid.

[48] *Handbook for Legislation on Violence against Women*, p. 50.

the protection of victims.[49] Other concerns linked to protection orders include the failure to issue them immediately, orders that are ineffective due to their short duration or orders that lack clear directives on the distance abusers should keep from the victim.

87. Lack of coordination between different branches of the legal system, for instance between family courts and criminal courts,[50] can impede women's access to safety. In some jurisdictions, victims must choose between a civil protection order remedy or criminal sanctions, while good practice is for both to be simultaneously available to victims. Very often there is a lack of effective coordination mechanisms;[51] there is a need to establish registration systems for protection orders that would enable police or criminal justice officials to quickly determine whether such an order is in force. In the case of federal States, laws and protection orders are different in the different jurisdictions and often are not mutually recognized and uniformly enforced, whereas a good practice would be their automatic enforceability across jurisdictions.

88. Jurisprudence of the Committee on the Elimination of Discrimination against Women and the Inter-American Court of Human Rights in cases of femicide show that protection orders are effective only if they are diligently enforced and if breaches are subject to criminal penalties.[52] Women seeking protection through enforcement of protection orders should be treated by police in a speedy manner while respecting their rights.[53]

Third-party application for a protection order

89. A key issue to consider is whether a third party is able to apply for a protection order.[54] While ensuring that the agency of the complainant/survivor is respected, other actors, such as State actors, family members and relevant professionals, should be allowed to have standing to seek such applications.[55] Jurisprudence on this issue has established that the request for an order should lie not only lie with the woman at risk;[56] when considering evidence relating to a prosecution, prosecutors should ascertain the protection needs of the victim and take action on their own initiative.

Issuance of reciprocal protection orders

90. The Special Rapporteur has observed that very often restraining orders are issued reciprocally, which often signals a problem of de-gendered application of domestic violence legislation.[57] Protection orders are predicated on equal treatment of all forms of violence in a gender-neutral manner: mild forms of reactive violence or verbal quarrel are treated in the same manner as serious gender-based violence. As a result, women victims of violence have also been the subjects of protection orders issued to protect the perpetrator, and in some cases are held in detention for breaching such reciprocal orders.

5. Protection orders and shelters as part of an integrated approach to services and protection measures

Lack of an integrated approach to specialized services and protection measures

91. The Special Rapporteur often encounters a lack of integrated, comprehensive and coordinated approaches to violence against women, including in relation all specialized services and protection measures.

[49] See, for example, A/HRC/23/49/Add.4, para. 65 (Croatia).
[50] See, for example, CEDAW/C/PRT/CO/8-9, para. 22.
[51] See *Lenahan (Gonzales) v. United States of America*, para. 215 (4).
[52] Ibid., para. 163.
[53] Ibid., para. 215 (4).
[54] See, for example, A/HRC/11/6/Add.4, para. 49 (Republic of Moldova).
[55] *Handbook for Legislation on Violence against Women*, p. 48.
[56] See *Opuz v. Turkey*, para. 148.
[57] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21243&LangID=E.

92. An important good practice that has been endorsed by the Committee on the Elimination of Discrimination against Women and the Special Rapporteur is the "one-stop shop", an institution that provides a variety of important services for women, including a range of legal, health and social services.[58] These include the provision of legal advice as well as medical care for immediate injuries; access to emergency contraception and HIV prophylaxis in cases of rape; medico-legal evidence gathering and reporting; counselling; referrals to other service provision, for example, shelters in cases of domestic violence; and assistance with making reports to the police.

93. There are examples of free 24/7 telephone helplines established by NGOs and in some cases supported by States, but in general there is a lack of free, sustainable and State-supported 24/7 helplines.

Attitudes of law enforcement professionals

94. The Special Rapporteur has also expressed serious concern about the persistence of gender stereotypes among the police, which is reflected in various forms of misconduct. Police routinely dismiss complaints, either refusing to believe the woman's allegations or failing to recognize intra-family violence as a crime. Police officers, especially in rural areas, still issue "warning letters" or simply record a written declaration, devoid of any legal value, in which perpetrators commit to not exercise violence against their partner.[59] In numerous cases, police do not provide adequate support and information on shelters or protection orders to victims of domestic violence and investigations are halted as soon as a victim withdraws her statement. Such biased attitudes frequently mean that women's complaints are turned away and, at times, victims are even intimidated or warned against attempting to file charges, exacerbating the issue of the underreporting of violence against women.

Lack of risk assessment and management

95. It has emerged from the mandate's country visits that one of the first problems with the issuance of protection measures and the protection and prosecution of gender-based violence is the lack of risk management and assessment of the related lethality risk by police and other relevant officers.[60]

Language barriers for ethnic minorities

96. The Special Rapporteur also highlights that services provided for the protection of female victims of violence are often not available in the languages spoken by all the ethnic minorities, impeding them in reporting cases of violence and therefore seeking adequate protection.

Mandatory reconciliation/mediation

97. Women victims of gender-based violence are often required by national law to enter into mediation processes with the men who were violent towards them, especially in cases of family-related violence or cases of divorce or child custody disputes. Social stigma and pressure to keep families together as well as women's lack of economic empowerment heavily influence a woman's decision to reconcile with those who have inflicted violence against her. Law enforcement also tends to minimize offences in the belief that domestic violence is a private matter, discouraging victims from pursuing cases and promoting

[58] See, for example, A/HRC/32/42/Add. 2, para. 57 (South Africa).

[59] See, for example, A/HRC/32/42/Add.3 (Georgia), A/HRC/26/38/Add.3 (Azerbaijan) and Committee on the Elimination of Discrimination against Women, communication No. 24/2009, *X and Y v. Georgia*, Views adopted on 13 July 2015.

[60] See A/HRC/32/42/Add.2 (South Africa); see also Isabel Ruiz-Pérez, Juncal Plazaola-Castaño and Carmen Vives-Cases, "Methological issues in the study of violence against women", Journal of Epidemiology and Community Health, vol. 61 (December 2007), available from https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2465770/.

conciliation.[61] Therefore, negotiation and mediation can have dangerous effects, especially in those cases where those hosting or supervising the negotiation are not familiar with the methods of psychological threat and control that perpetrators use along with physical violence.

Lack of training for law enforcement personnel

98. The Special Rapporteur and the Committee on the Elimination of Discrimination against Women have also addressed the lack of and need for training of judges and law enforcement personnel on the realities of the various forms of gender-based violence,[62] as well as on the relevant national and international laws and jurisprudence. Judges, lawyers and law enforcement personnel should receive mandatory training on the application of national laws on violence against women and on the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto, the Committee's general recommendations and, in particular, its jurisprudence.[63]

Children witnessing gender-based violence against women

99. Children witnessing or being exposed to acts of family violence have been described by the Committee on the Rights of the Child and by the Committee on the Elimination of Discrimination against Women as subjects of both a form of neglect and psychological violence.[64] The Committee on the Elimination of Discrimination against Women made a number of determinations about the standards required for protection orders with respect to a child's safety in the case of Angela González Carreño against Spain. The case concerned a 7-year-old girl who was murdered by her father during a court-approved visit in a context where the mother had repeatedly sought protection against her husband, who had threatened and physically abused them. The Committee observed that the authorities did not conduct a comprehensive evaluation of possible benefits or harms of this regime for the child; on the contrary, the elements of the case indicated a pattern of action which responded to a stereotyped conception of visiting rights based on formal equality.[65]

IV. Conclusions and recommendations

100. **The persistence of systemic gender-based violence against women, even in States that have proclaimed zero tolerance of violence against women, indicates that gender-based violence is deeply entrenched in our still predominantly patriarchal societies and accepted as "just the way things are". Prevention and eradication of violence against women require transformation and adoption of comprehensive, integrated and coordinated policies and laws based on international and regional human rights law commitments. The establishment of safe women's shelters and efficient and immediate protection orders should be seen as human rights obligations that uphold a woman's right to live free from violence.**

A. Specific recommendations to States

Human rights-based approach and integrated and coordinated laws and policies

101. **When formulating and implementing national laws on violence against women and domestic violence, States should apply the human rights-based approach provided by the Convention on the Elimination of All Forms of Discrimination against Women and regional instruments to prevent violence against women, protect women's right to live free from violence and prosecute perpetrators. States need to establish a**

[61] See A/HRC/17/26/Add.2, para. 59 (El Salvador).
[62] See A/HRC/11/6/Add.3, para. 70 (c) (Saudi Arabia).
[63] See *V.K. v. Bulgaria*, para. 9.16 (b) (iv).
[64] Committee on the Rights of the Child, general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, paras. 20 (b) and 21.
[65] See *González Carreño v. Spain*, para. 9.4; see also article 31 of the Istanbul Convention.

coherent legal framework of aligned laws addressing protection services such as shelters and protection measures, including protection orders, as well as effective mechanisms for cooperation and coordination between and across different mandates of the State system dealing with violence against women. These include the police, public prosecutors, the judiciary and social services, health-care professionals, NGOs and other relevant organizations providing frontline services and offering multi-agency cooperation for appropriate handling of cases.

Financial and human resources

102. **States should allocate adequate financial and human resources for the adequate implementation of integrated policies, measures and programmes to prevent and combat gender-based violence against women, including appropriate financial and human resources for the establishment and running of shelters, including those operated by non-governmental organizations.**

Risk assessment and management

103. **States should ensure that police officers and other professionals carry out an assessment of the lethality risk, the seriousness of the situation and the risk of repeated violence in order to manage the risk and provide safety and support to victims. States should take the necessary measures to ensure that such assessments are duly taken into account at all stages of the investigation and application of protective measures and that they duly take into account possession of or access to firearms by perpetrators. Relevant authorities must also be aware of the increased risk of reprisals that women face when they seek official assistance from the authorities, the courts or the police.**

Integrated child safety approaches

104. **Children witnessing gender-based violence against women have a right to be heard and to have their best interests taken into account by all decision makers as a primary consideration, taking also into account the existence of a context of domestic violence.[66] States must create institutional methods of assessing whether children have witnessed violence against women and provide the appropriate resources to identify, prevent and react to violence against children; it is a breach of State obligations when State agents disregard the best interests of children.[67] Visitation by the violent parent must be carefully regulated to ensure that victims and their children are safe. An integrated child safety approach needs to be taken into account in the provision of shelters and in enforcing protection orders.**

105. **Boys, including adolescent boys, are sometimes in the care of their mothers when they seek access to shelters. Where there are concerns about, for example, privacy of bathrooms because of the presence of boys, shelters should provide appropriate accommodation to keep these families together, for example, self-contained housing units with private bathroom facilities. All children residing with their mothers in shelters should be provided with support and assistance so that they can continue their education with the least possible interruption.**

Training of professionals

106. **States should ensure that training on gender-based violence is mainstreamed into the basic professional training for all relevant professionals, including police officers, lawyers, judges, social workers and medical professionals. Police officers in particular should be trained to eliminate police mistreatment and bias against female victims of violence, including with respect to the issuance of reciprocal protection orders when they are not necessary.**

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[66] See Committee on the Rights of the Child, general comment No. 13, para. 3 (e).

[67] Ibid., para. 32.

24/7 telephone helplines

107. **States should establish around-the-clock national toll-free telephone helplines for victims which would provide confidential advice, with due regard for the victim's anonymity, and which would be able to handle emergency admission to shelters.**

Secure shelters

108. **States should provide for a sufficient number of safe and confidential shelters (both State and non-State funded), adequately funded and allocated throughout the State's territory, including in rural areas. States should map and plan an adequate number of shelters. At least one shelter capable of admitting women and children around the clock should be available in every region of each State, including rural areas; one shelter place for every 10,000 inhabitants could serve as benchmark. Every woman should be able to reach a shelter quickly. Transport must also be available to take women and children to the nearest refuge.**

109. **States should ensure sufficient access to shelters for any woman or girl who needs protection, including children and disadvantaged women. Access should be available also on an emergency basis, even during the night: 24 hours, 7 days a week should be the norm. Women should be able to refer themselves to these services and be able to stay as long as their safety is not ensured.**

110. **Shelters should be places of empowerment for women. They should be oriented towards victims' rehabilitation and women's empowerment. Support should be given to help women live independently in long-term, sustainable, adequate housing and to guarantee their rehabilitation and empowerment.**

111. **Shelters should never be used by the State as a form of protective custody and States should ensure that measures to guarantee women's safety are taken in full consultation with and the consent of the woman involved.**

Efficient protection orders

112. **States shall make the necessary amendments to domestic legislation to ensure that protection orders are duly enforced by public officials and easily obtainable. In this regard:**

(a) **States shall ensure that the competent authorities are granted the power to issue protection orders for all forms of violence against women. The orders must be easily available and enforced to protect the well-being and safety of those under their protection, including children;**

(b) **Protection orders for immediate protection in case of immediate danger of violence (emergency orders) should also be available ex parte and remain in effect until a longer-term protection order comes into effect after a court hearing. They should be available on the statement of the victim, as seeking further evidence may lead to delays which put the victim at greater risk. They typically should order a perpetrator to vacate the residence of the victim for a sufficient period of time and prohibit the perpetrator from entering the residence or contacting the victim;**

(c) **Protection orders must be available irrespective of, or in addition to, other legal proceedings such as criminal or divorce proceedings against the perpetrator; not be dependent on the initiation of a criminal case; and be allowed to be introduced in subsequent legal proceedings. As many forms of violence, particularly domestic violence, are courses of conduct which take place over time, strict time limits on access to protection orders should not be imposed. The standard of proof that an applicant must discharge in order to be granted an order should not be the standard of proof in criminal cases;**

(d) **In terms of content, protection orders may order the perpetrator to vacate the family home, stay a specified distance away from the victim and her children (and other people if appropriate) and some specific places, and prohibit the perpetrator from contacting the victim. Since protection orders should be issued**

without undue financial or administrative burdens on the victim, protection orders can also order the perpetrator to provide financial assistance to the victim;

(e) In terms of standing, while ensuring that the agency of the victim is respected, other actors, such as State actors, family members and relevant professionals, should be allowed standing to make applications for a protection order;

(f) In criminal proceedings, all protection measures available to the competent authorities should be used to ensure the safety of victims. In particular, States should guarantee that a proper risk assessment and child safety approach is integrated into the provision of protection orders;

(g) States should provide appropriate criminal sanctions for perpetrators' non-compliance with protection orders;

(h) States should ensure regular monitoring of the implementation of protection orders and their automatic enforceability across jurisdictions.

113. States should also guarantee that all cases of gender-based violence are heard in a timely and impartial manner, that ex officio prosecution is duly exercised and that proceedings may continue even when a victim withdraws her complaint.

114. States should also avoid mandatory reconciliation in cases of violence against women.

B. General recommendations to States

115. States should consider developing additional indicators on the implementation of Sustainable Development Goal 5.2, elimination of violence against women, including indicators on shelters and protection orders.

116. States should collect data on all forms of violence against women and establish a "femicide watch" or "gender-related killing of women watch", and collect and publish annual data on the number of femicides and analyse each case of femicide in order to prevent future cases.

C. General recommendations to UN-Women and other relevant stakeholders

117. UN-Women, as part of its work on violence against women and its administration of the Trust Fund for Victims of Violence against Women and in cooperation with the Special Rapporteur and other stakeholders, may wish to establish and maintain a global database on the number and types of shelters in States and provide adequate support for their establishment.